



DAC / JFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jones et al.

Serial No.: 10/644,256

Filed: August 20, 2003

For: EFFICIENT PRODUCTION OF IgA
IN RECOMBINANT MAMMALIAN
CELLS

Examiner: W. Schlapkohl, Ph.D.

Group Art Unit: 1636

Attorney Docket No.: 2578-6077US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Aug 12, 2009
Date

Betty Vowles
Signature

Betty Vowles
Name (Type/Print)

**PETITION UNDER 37 C.F.R. § 1.78(a)(3) AND 37 C.F.R. § 1.78(a)(6) FOR
ACCEPTANCE OF UNINTENTIONALLY DELAYED PRIORITY CLAIMS**

Mail Stop Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Decision on Petition under 37 C.F.R. 1.78(a)(3), received on April 21, 2009, applicants respectfully petition under 37 C.F.R. § 1.78(a)(3) and 37 C.F.R. § 1.78(a)(6) for the acceptance of unintentionally delayed priority claims. As stated in the Specification, PCT International Patent Application No. PCT/EP03/50201, European Patent Application No. 02077953.4, and United States Provisional Application Serial No. 60/397,066 are parent applications of then co-pending PCT International Patent Application No. PCT/EP2003/007690. As provided by 35 U.S.C. § 365(c), "an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior

international application designating the United States.” Therefore, claims of priority to these prior applications are proper.

In the Decision on Petition under 37 C.F.R. 1.78(a)(3), received on April 21, 2009, the Office asserted that applicants’ prior petition failed to provide an accompanying “reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted.” *Id.*, at 1. Specifically, the Office asserted that the Amendment filed on November 20, 2006, failed to properly indicate the relationship between the two international applications; and also that the Amendment also failed to properly include references between multiple applications in a chain. *Id.*, at 2. Applicants have amended the application to clarify the relationships between the priority documents and the present application.

Priority claim to PCT/EP2003/007690

Pursuant to 37 C.F.R. § 1.78(a)(3) and 37 C.F.R. § 1.78(a)(6), applicants petition to be afforded, under 35 U.S.C. § 365(a), right of domestic priority to then co-pending PCT International Patent Application No. PCT/EP2003/007690, filed on July 15, 2003, designating the United States of America, published, in English, as International Publication No. WO 2004/009618 A2 on January 29, 2004, of which the present application is a continuation-in-part.

Applicants note that this claim for priority was previously submitted in the communications filed November 16, 2006, and November 19, 2008.

Applicants further note that, pursuant to 37 C.F.R. § 1.78(a)(3), the required surcharge set forth in § 1.17(t) was submitted in conjunction with the communication filed November 16, 2006.

Pursuant to 37 C.F.R. § 1.78(a)(3)(iii), applicants submit that “the entire delay between the date the claim was due under [37 C.F.R. § 1.78(a)(2)(ii)] and the date the claim was filed was unintentional.”

Priority claim to PCT/EP03/50201

Pursuant to 37 C.F.R. § 1.78(a)(3), applicants petition to be afforded, under 35 U.S.C. § 365(c), right of domestic priority to PCT International Patent Application No. PCT/EP03/50201,

filed on May 27, 2003, designating the United States of America, of which the present application is also a continuation-in-part. International Patent Application No. PCT/EP03/50201 is a parent international application of co-pending PCT International Patent Application No. PCT/EP2003/007690.

Applicants note that this claim for priority was previously submitted in the communication filed November 16, 2006.

Applicants further note that, pursuant to 37 C.F.R. § 1.78(a)(3), the required surcharge set forth in § 1.17(t) was submitted in conjunction with the communication filed November 16, 2006.

Pursuant to 37 C.F.R. § 1.78(a)(3)(iii), applicants submit that “the entire delay between the date the claim was due under [37 C.F.R. § 1.78(a)(2)(ii)] and the date the claim was filed was unintentional.”

Priority claim to EP 02077953.4

Pursuant to 37 C.F.R. § 1.78(a)(3), applicants petition to be afforded, under 35 U.S.C. § 365(c), right of domestic priority to European Patent Application No. 02077953.4, filed on July 18, 2002. International Patent Application No. PCT/EP03/50201 is a continuation of European Patent Application No. 02077953.4.

Applicants note that this claim for priority was previously submitted in the communication filed November 16, 2006.

Applicants further note that, pursuant to 37 C.F.R. § 1.78(a)(3), the required surcharge set forth in § 1.17(t) was submitted in conjunction with the communication filed November 16, 2006.

Pursuant to 37 C.F.R. § 1.78(a)(3)(iii), applicants submit that “the entire delay between the date the claim was due under [37 C.F.R. § 1.78(a)(2)(ii)] and the date the claim was filed was unintentional.”

Priority claim to US 60/397066

Pursuant to 37 C.F.R. § 1.78(a)(3), applicants petition to be afforded, under 35 U.S.C. § 365(c), right of domestic priority to United States Provisional Application Serial No. 60/397,066,

filed on July 18, 2002. United States Provisional Application Serial No. 60/397,066 is a parent national application of co-pending PCT International Patent Application No. PCT/EP2003/007690.

Applicants note that this claim for priority was previously submitted in the communication filed November 16, 2006.

Applicants further note that, pursuant to 37 C.F.R. § 1.78(a)(3), the required surcharge set forth in § 1.17(t) was submitted in conjunction with the communication filed November 16, 2006.

Pursuant to 37 C.F.R. § 1.78(a)(3)(iii), applicants submit that “the entire delay between the date the claim was due under [37 C.F.R. § 1.78(a)(2)(ii)] and the date the claim was filed was unintentional.”

Authorization to Charge Deposit Account

Applicants note that, pursuant to 37 C.F.R. § 1.78(a)(3), the required surcharge set forth in § 1.17(t) was submitted in conjunction with the communication filed November 16, 2006. However, any fee required but not submitted with this communication may be charged to deposit account no. 20-1469.

CONCLUSION

Grant of the right of domestic priority to PCT International Patent Application No. PCT/EP2003/007690, and its parent applications: PCT International Patent Application No. PCT/EP03/50201; European Patent Application No. 02077953.4; and United States Provisional Application Serial No. 60/397,066 is respectfully requested. If questions remain after consideration of the foregoing, or if the Office should determine that there are additional issues which might be resolved by telephone conference, the Office is kindly requested to contact applicant's attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Morath', with a long horizontal flourish extending to the right.

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Date: August 17, 2009